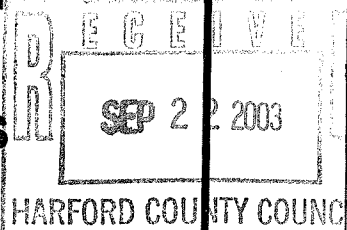


STANDARD APPLICATION
Harford County
Board of Appeals
Bel Air, Maryland 21014



Case No. 1-5376
Date Filed 9/16/03
Hearing Date _____
Receipt _____
Fee \$450

Shaded Areas for Office Use Only

Type of Application

Nature of Request and Section(s) of Code _____

- _____ Administrative Decision/Interpretation
_____ Special Exception
_____ Use Variance
_____ Change/Extension of Non-Conforming Use
_____ Minor Area Variance
_____ Area Variance
_____ Variance from Requirements of the Code
_____ Zoning Map/Drafting Correction

CASE 5376 MAP 33 TYPE Variance

ELECTION DISTRICT 3 LOCATION 2200 Tory Way, Forest Hill, Md. 21050

BY Steven and Deborah Adornato

Appealed because a variance pursuant to Section 267-26C(6) of the Harford County Code to allow a retaining wall in the recorded easements in a VR District requires approval by the Board.

NOTE: A pre-conference is required for property within the NRD/Critical Area or requests for an Integrated Community Shopping Center, a Planned Residential Development, mobile home park and Special Exceptions.

Applicant/Owner (please print or type)

Name Steven Adornato Phone Number (410) 803-2502

Address 2200 Tory Way Forest Hill MD 21050
Street Number Street City State Zip Code

Co-Applicant Deborah Adornato Phone Number (410) 803-2502

Address 2200 Tory Way Forest Hill MD 21050
Street Number Street City State Zip Code

Contract Purchaser _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Attorney/Representative _____ Phone Number _____

Address _____
Street Number Street City State Zip Code

Hearing: 11/5/03

Land Description

Address and Location of Property 2200 Tory Way

Forest Hill, Maryland 21050-2653

Subdivision North Forest - 3346

Lot Number 46

Acreage/Lot Size 12,022 SF

Election District _____

Zoning VR

Tax Map No. 33 Grid No. 4D Parcel 421 Water/Sewer: Private _____ Public X

List ALL structures on property and current use: Single family home of 2,988 SF is used as a family dwelling

Estimated time required to present case: 12 minutes

If this Appeal is in reference to a Building Permit, state number _____

Would approval of this petition violate the covenants and restrictions for your property? no

Is this property located within the County's Chesapeake Bay Critical Area? Yes _____ No X

If so, what is the Critical Area Land Use designations: _____

Is this request the result of a zoning enforcement investigation? Yes _____ No X

Is this request within one (1) mile of any incorporated town limits? Yes _____ No X

Request

Variance to allow construction of a retaining wall within the 10 foot drainage
and utility easement along south rear property boundary. Face of wall to be
five feet from the south (rear) lot line.

Justification

Unique Property: Extraordinarily deep swale, intended to be located on common
area, intrudes onto subject parcel and deprives owners of usable rear
lawn. All other parcels have usable rear lawns. There is no detriment to
any other property owner.

See attachment.

If additional space is needed, attach sheet to application. In answering the above questions, please refer to the Requirements that pertain to the type of approval request. (Special Exception, Variance, Critical Area or Natural Resource District (NRD) Variance, etc.)

Attachment to Adornato Application

The home on the subject property was built for the applicants, Steven and Deborah Adornato. When Mr. and Mrs. Adornato first moved into the property, their rear lawn sloped gently from the back of the house to a relatively shallow swale just beyond their rear property line. Shortly after Mr. and Mrs. Adornato moved into the property, the developer, Maloney Homes, who was still developing nearby properties, regraded the swale to its current configuration which is a much deeper swale. The developer also expanded the swale partially onto the Adornatos' property. The swale is a major drainage swale which drains most of the North Forest Development. For most of its distance, the swale runs through the common area for the North Forest community. The exception being that portion of the swale on the Adornatos' property.

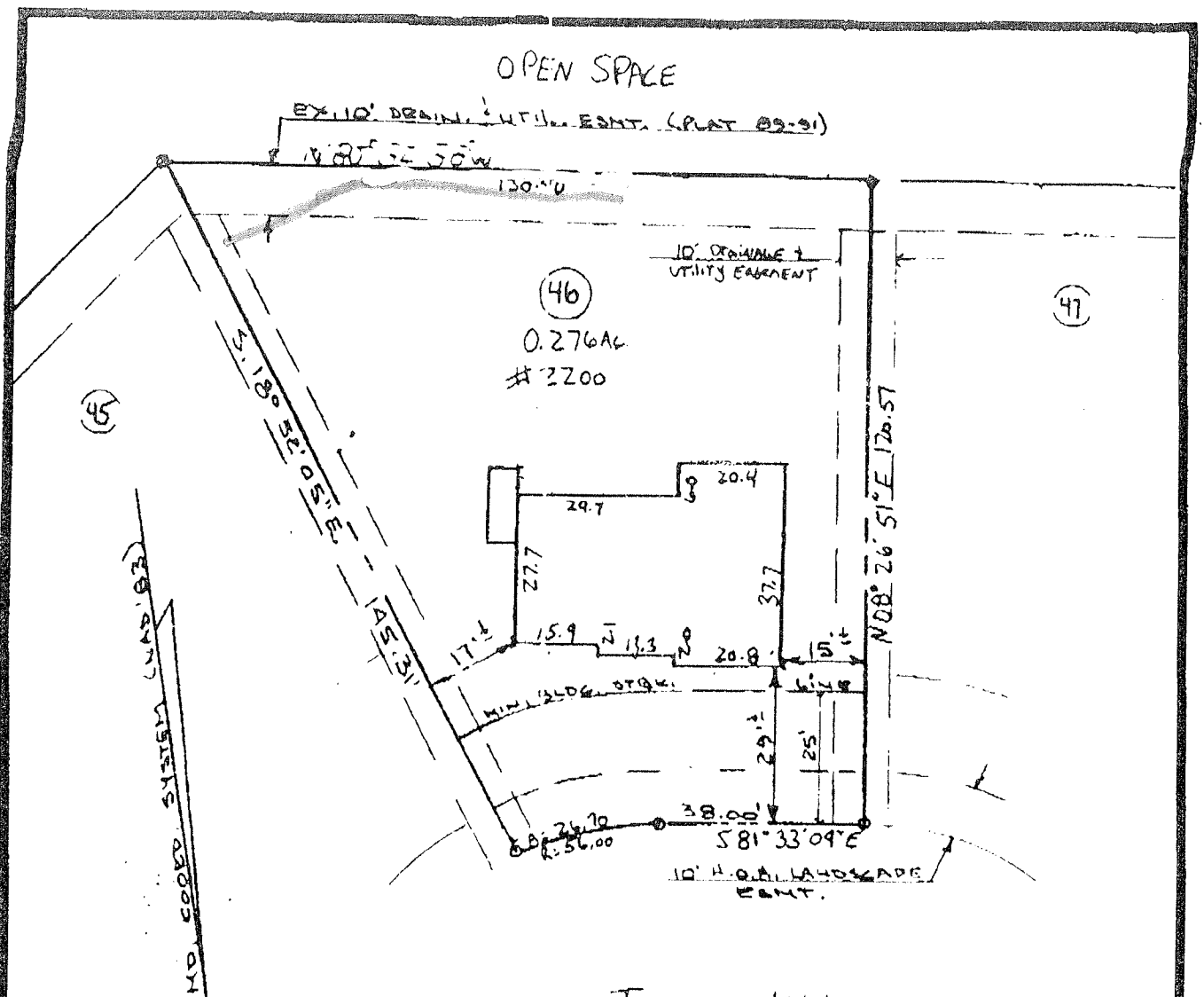
When Mr. and Mrs. Adornato approached the developer about removing the swale and regrading their back lawn, their request was not accommodated and litigation ensued. During the course of litigation, it was determined that moving the swale from the Adornatos' property would be nearly impossible and that a more drastic attempt to correct the current situation would cost the developer in excess of \$50,000.00. The difficulty in moving the swale arises because the point at which the swale passes to the rear of the Adornatos' property is sandwiched between the Adornatos' lot and the adjacent business park. A landscaping berm runs between the Adornato parcel and the business park. The height and slope of the landscaping berm make it virtually impossible for the swale to be relocated or adjusted in any reasonable fashion.

In an effort to settle the dispute between the Adornatos and the developer, it has been agreed that the developer will construct the landscaping berm to the rear of the Adornatos' property, 5 feet from the Adornatos' rear property line, but within the 10 foot easement for

drainage and utilities. The wall height, which is less than 4 feet, will allow the Adornatos to regrade and reclaim much of their rear lawn. The Harford County Department of Public Works has inspected the Adornatos' property and has approved the location of the proposed retaining wall. Due to the great depth and width of the swale, the retaining wall will not interfere with water flow in the swale.

The Adornatos' property is unique given that other properties in the neighborhood enjoy the full use of their gently sloping rear lawns. Other properties are not subject to the incursion of the deep swale with steeply sloped sides. Other properties in the neighborhood which have the swale running to the rear of those properties retain their gently sloped rear lawns. The Adornato parcel is at that location in the development where the distance between the Adornatos' rear lot line and the adjoining business park is at its closest point. This means that the distance between the landscaping berm adjacent to the business park and the Adornatos' rear lot line is at its narrowest point and restricts the location of the swale, forcing it onto the Adornatos' parcel.

The proposed landscaping wall will not in any manner effect any of the neighboring properties. The retaining wall will not be visible from any residential property in the neighborhood. It would only be visible to an individual who is actually standing in the drainage swale. The wall will not be visible from the adjoining business park as it will be hidden by the existing landscaping berm.



TORY WAY
R/W VARIES

FLOOD NOTE:
THIS IS TO CERTIFY THAT THE LAND SHOWN
HEREON IS NOT WITHIN THE FLOOD ZONES
AS SHOWN ON THE FLOOD INSURANCE
RATE MAPS AS PUBLISHED MARCH 2, 1993

*SEE REVERSE FOR ADDITIONAL NOTES



	MORRIS & RITCHIE ASSOCIATES, INC. ENGINEERS, PLANNERS, SURVEYORS AND LANDSCAPE ARCHITECTS 139 N. Main Street, Suite 200 Bel Air, Maryland 21014 (410) 879-1890 • (410) 838-7560 Fax: (410) 879-1820		LOCATION DRAWING LOT 46 FINAL PLATONE - PHASE TWO - SECTION ONE NORTH FOREST C.G.M. 95 FOLIO 6 THIRD ELECTION DISTRICT HARFORD COUNTY, MD. FOR: MALONEY HOMES	
	SCALE 1" = 30'	DATE 6-4-99	DRAWN BY JM	DESIGN BY
JOB NO 10640				

BK# 6 PB# 64

000014